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FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. APPLICATION NO. FILING DATE 10/789,380 02/27/2004 3425.04US02 4942 Kevin Argo **EXAMINER** 24113 7590 11/02/2004 PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A. ESTREMSKY, GARY WAYNE **4800 IDS CENTER** ART UNIT PAPER NUMBER **80 SOUTH 8TH STREET** 

3676

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provisions of 37 CPR 1.136(a). In so event, however, may a raply be timely filed size of McNTYS from the mailing date of this communication.  If the provision of the content of the communication of the communication.  If No period to reply is specified above, the maximum statutory provide valley had not live gives 15 (x) (b) MOTTS from the mailing date of this communication.  Fallize to reply visible the set of extended period for raply will, by statute, cause the application to become ASANDONED (33 U.S.C. § 133).  Again print y received by the Cfiles date than three more statute the mailing date of this communication, even if timely filed, may reduce any search patient term adjustment. See 37 CFR 1.794(b).  Status  1) Responsive to communication(s) filed on		Application No.	Applicant(s)		
Cary Estremsky  3876  — The MALLING DATE of this communication appears on the cover sheet with the correspondence address — Period for Repty  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALLING DATE OF THIS COMMUNICATION.  1 See 19 See	Office Action Summary	10/789,380	ARGO, KEVIN	30	
The MALLING DATE of this communication appears on the cover sheet with the correspondence address—Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALLING DATE OF THIS COMMUNICATION.  Edulations of time may be available under the provision of 37 CR 1.13(a). In no event, however, may a reply be timely filed  Ethics of the may be available under the provision of 37 CR 1.13(a). In no event, however, may a reply be timely filed  Ethics of the priod for reply appendia date is less than thery (00 days, at low or provide the authory minimum of their (30) days will be considered rinely.  Ethics of the priod for reply appendia date, the manifest date of priod for reply valle, by sharker, eause the application to become ABANDONED (38 U.S.C § 133).  Period for reply appendia date, the manifest of the communication, even if the priod for the priod gatent ferm adjustment. Sea 37 CFR 1.704(b).  **British to reply within the each of endedded priod for reply valle, by sharker, eause the application, even if the communication, even if the communication and priod gatent ferm adjustment. Sea 37 CFR 1.704(b).  **British to reply within the each of endedded priod for reply valle, by sharker, eause the application, even if the communication, even if the communication.  **This action is FINAL.**  20		Examiner	Art Unit		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  • Extremon of immunity he available under the professions of 37 GFR 1.136(s). In no event, however, may a reply be timined filled.  • If the period for reply specified above, the maximum statutory pariod will apply and will expire \$10.00 (b) days, a reply while the statutory minimum of thiny (30) days will be considered timely.  • If NO period for reply is a pecified above, the maximum statutory pariod will apply and will expire \$10.00 (b) days will be considered timely.  • If NO period for reply specified above, the maximum statutory pariod will apply and will expire \$10.00 (b) days will be considered timely.  • If NO period for reply is a pecified above, the maximum statutory pariod will apply and will expire \$10.00 (b) days will be considered timely.  • If NO period for reply specified above, the maximum statutory pariod will apply and will expire \$10.00 (b) days will be considered timely.  • If NO period for reply specified above, the maximum statutory pariod will apply and will expire \$10.00 (b) days will be considered timely.  • If NO period for reply specified above, the maximum statutory pariod will apply and will expire \$10.00 (b) days will be considered timely.  • If NO period for reply specified above, the maximum statutory pariod will apply and will expire \$10.00 (c) days will be considered to maximum statutory pariod will apply and will expire \$10.00 (c) days will be considered timely.  • Responsive to communication \$10.00 (c) days are pariod will apply the statutory flow, may reduce any seriod pariod will apply flow.  • Application of Claims  • A) Claim(s) is/are pending in the application.  • Application Papers  • A)					
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#### **DETAILED ACTION**

#### Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims.

While a handle (140) has been shown, the disclosure does not illustrate the claimed "thumbturn" or "pushbutton" of claim 3. The disclosure does not illustrate "the cam axis is generally parallel to the plane (of the plane of the housing as shown in Fig 4 for example) as set forth in claim 5. The drawings do not illustrate the arrangement including a "door" of claim 13. Similarly, the steps of claims 14-22 are not shown, particularly noting that the "door" and "door jamb" central to the claimed method are not illustrated. Therefore, the indicated must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional

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replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

## Claim Objections

1. Claim 14 is objected to because of the following informalities:

"biased in the locked position" should be replaced with -biased toward the locked position-.

Appropriate correction is required.

#### Claim Rejections - 35 USC § 112

- 2. The following is a quotation of the first paragraph of 35 U.S.C. 112:
  - The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
- 3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

  The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 4. Claims 3-5, 16, 17, and 24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a

way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

As regards claims 3, 16, and 24, although the term "pushbutton" is used in the written description, the original disclosure does not provide adequate written description and/or illustration to enable one of ordinary skill in the art to make and use an embodiment having a pushbutton since the necessary interconnecting/operable structure is not disclosed.

As regards claims 4 and 16, although a part '148' has been described as a "lock assembly" in the written description, the original disclosure does not provide adequate written description and/or illustration to enable one of ordinary skill in the art to make and use an embodiment having a pushbutton since the necessary interconnecting/operable structure is not disclosed.

As regards claims 5 and 17, 'as best understood' the axis of rotation of the illustrated cam (120) is perpendicular to the plane of the housing as shown in Fig 4. The disclosure does not provide adequate written description and illustration to enable one of ordinary skill in the art to make and use the claimed invention.

5. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Assuming Applicant intends to claim the illustrated arrangement (axis as noted above), the claim is rejected as indefinite since it does not clearly describe that arrangement. It's noted that the disclosed/claimed "latch" pivots generally

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perpendicularly to the mounting plane of the housing (ie the plane of the door or closure) by virtue of its axis of rotation being parallel to the plane. It might be assumed that the discrepency stems from (mis)use of the terms of geometry but the examiner is obligated to examine the limitations.

Additionally as regards claims 1-7, it is not clear if the claimed invention includes a biasing member or not. It appears that the claim does not include the structure required for performing the recited function of "biased". It is suggested that limitation of claim 8 be added to claim 1 or that "biased toward,..." be replaced with –capable of being biased toward,...–.

### Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35
U.S.C. 102 that form the basis for the rejections under this section made in this
Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 7. Claims 1-3 and 5-29 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 2,469,430 to Bowlzer.

Bowlzer '430 teaches Applicant's claim limitations including: a "housing" - including 14,16, a "latch" - 29, "biased" - by spring 20, a "cam" - either of parts 30 or 33 read on limitation.

As regards claim 2, part 32 reads on "actuator shaft".

As regards claim 3, Bowlzer '430 teaches "handle" - 34.

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As regards claim 5, 'as best understood', Applicant intends to define the claimed invention consistent with the disclosed invention wherein the cam rotates on an axis perpendicular to the mounting plane of the housing. In that respect, part 33 rotates on an axis of the handle, perpendicular to the mounting plane of 14. However, part 30 rotates around part 18, an axis parallel to the mounting plane of part 14.

As regards claims 6, either of parts 30,33 has a generally sloping surface, but part 30 defines maximum thickness at its crest.

As regards claim 12, Bowlzer '430 teaches a "pin" 18.

#### Allowable Subject Matter

8. Due to the nature of rejections made under 35 USC 112, no allowable subject matter can be indicated at this time.

#### Conclusion

- 9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
  - U.S. Pat. No. 3,563,068 to Dushane.
  - U.S. Pat. No. 5,551,188 to Davlantes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 703 308-0494. The examiner can normally be reached on M-Thur 7:30-6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gary Estremsky Primary Examiner Art Unit 3676